

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

BYTEMARK, INC.,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Civil Action No. 2:16-cv-00543-JRG/RSP
	§	
MASABI LTD.,	§	JURY TRIAL DEMANDED
	§	
Defendant.	§	

**DEFENDANT MASABI LTD.’S UNOPPOSED MOTION FOR LEAVE TO EXTEND
TIME TO FILE ITS ANSWER OR OTHERWISE TO RESPOND TO PLAINTIFF’S
AMENDED COMPLAINT**

Defendant Masabi Ltd. (“Masabi”) requests leave to extend time to file its answer or otherwise to respond to Plaintiff’s Amended Complaint.

On May 20, 2016, Bytemark, Inc. (“Bytemark” or “Plaintiff”) filed a complaint (“Original Complaint”) alleging that Masabi infringed various claims of U.S. Patent Nos. 8,494,967 (“the ‘967 Patent”) and 9,239,993 (“the ‘993 Patent”) (collectively the “Patents-in-Suit”). On September 16, 2016, Masabi filed a motion to dismiss Bytemark’s Original Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). On September 30, 2016, Plaintiff filed its First Amended Complaint. (Dkt. No. 36). Masabi filed its Renewed Motion to Dismiss 21 days later, on October 21, 2016. (Dkt. No. 39), which apparently was four days late due to a calendaring error.

On November 7, 2016, Bytemark filed its response opposing Masabi’s Renewed Motion to Dismiss. (Dkt. No. 40). In its response, Bytemark asserted that Masabi’s Renewed Motion to

Dismiss was untimely filed four days after its response was due under Rule 15(a)(3). *See* Dkt. No. 40, at 2-3.

Masabi is seeking leave to timely file its answer or otherwise to respond to Plaintiff's Amended Complaint. The Parties have conferred by phone about this Motion, and Bytemark is unopposed to the proposed Renewed Motion to Dismiss filed herewith. The Parties agree that no prejudice will befall Bytemark from the proposed Renewed Motion to Dismiss, and a continuance is not necessary.

For at least the reasons set forth herein, Masabi respectfully requests that the Court grant its Unopposed Motion for Leave to File Its Answer or Otherwise to Respond to Plaintiff's Amended Complaint as requested herein. Masabi files herewith its Renewed Motion to Dismiss originally filed on October 21, 2016 (Dkt. No. 39).

Dated: November 15, 2016

Respectfully submitted,

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Attorneys for Defendant Masabi Ltd.

CERTIFICATE OF SERVICE

This is to certify that all known counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per E. Dist. Tex. Loc. Ct. R. CV-5(a)(3) on this the 15th day of November 2016. Any other known counsel of record will be served with a copy of this document by email and/or facsimile transmission.

/s/ Katarzyna Brozynski

Katarzyna Brozynski

CERTIFICATE OF CONFERENCE

This is to certify that counsel for Masabi has conferred with counsel for Bytemark, and Bytemark does not oppose this Motion.

/s/ Katarzyna Brozynski

Katarzyna Brozynski